IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5587 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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NITA PARIKH ALIAS NITA UDANI

Versus

SAURASHTRA UNIVERSITY

Appearance:

1. Special Civil Application No. 5587 of 2002

MR HJ NANAVATI for Petitioner No. 1

MR AR THACKER for the Respondents.

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 21/06/2002

ORAL JUDGEMENT

1. Rule. Mr. Thacker appears and waives service of notice of Rule on behalf of the respondents.

2. With the consent of parties, this petition is taken up for final hearing.

3. The petitioner is working with respondent No.1 in capacity of Assistant Professor in Journalism Department of the University. Post of Associate Professor (Reader) (Journalism) is to be filed in and, for that purpose, a notice inviting applications was published by the University (Annexure-K). The petitioner applied for the post. It is the case of the petitioner that the petitioner, though qualified for being considered for the post, has not even been called for the interview and, therefore, by this petition, seeks the following main reliefs -

"(a) allow this petition.

(b) declare that the action of the respondent University in not calling the petitioner, who is qualified, for the purpose of interview to the post of Reader in the Department of Journalism of the respondent University, pursuant to the advertisement dated 23.9.2001 and thereby denying the petitioner the right to be considered being unconstitutional, arbitrary and in colourable exercise of power;

(c) declare that having regard to qualification and experience, the petitioner fulfils the criteria laid down by University Grants Commission, respondent University and as mentioned in the advertisement and, therefore, entitled to be called for interview to be held on 27.6.2002.

(d) direct the respondents their officers, servants and agents to call the petitioner for an interview for the post of Reader in the Department of Journalism of the respodent University which is scheduled to be held on 27.6.2002."

4. Learned Advocate Mr. Nanavaty appearing for the petitioner has drawn attention of this Court to the requisite qualifications required for the post of Reader and submitted that the three conditions are fulfilled by the petitioner. He submitted that in conditon No.1, a Ph.D. Degree in Communication/Mass Communication/ Journalism from an Indian University or an equivalent degree from a foreign University is required. The petitioner has already submitted thesis and is awaiting a call for viva-voce and, as such, the petitioner does not possess a Ph.D. degree at present, but the petitioner has published work of doctoral standard and, therefore, she satisfies the first condition. Mr. Nanavaty

submitted that there is no dispute about the petitioner possessing other qualifications. To satisfy that the petitioner satisfies the first qualifying condition, Mr. Nanavaty has drawn attention of this Court to a certificate issued by Dr. Yasim Dalal, Professor and Head of the Department of Journalism, Saurashtra University dated 17.10.2001 (Annexure-D), wherein it has been specifically certified that the petitioner has attended many seminars, workshops, etc. at regional and national level and has contributed research papers also. Mr. Nanavaty submitted that this certificate is coming from the Head of the Department of respondent No.1.

4.1 Mr. Nanavaty, therefore, urged that the petitioner is not claiming any appointment. She is only claiming a right of being treated at par with others and being considered for the post and the relief, therefore, may be granted.

5. Learned Advocate Mr. Thacker appearing for the respondents submitted that the petitioner does not possess the Ph.D. degree and, therefore, is not qualified.

6. Having regard to the contentions raised before this Court, it is not in dispute that the petitioner does not possess the Ph.D. degree, but it is also not in dispute that she has to her credit the research papers duly published, as can be seen from the certificate issued by Dr. Yasim Dalal. There is no dispute that the other two qualifying requirements are possessed by the petitioner. Under the circumstances, in the opinion of this Court, the petition deserves to be accepted to the extent that a direction is given to respondents to call the petitioner for the interview scheduled to be held on the 27th June, 2002 and consider her case on merits.

7. The petition is, therefore, allowed. The respondents are directed to call the petitioner for interview for the post of Associate Professor (Reader) (Journalism) to be held on the 27th June, 2002 and consider her case for the appointment to the post on merits without being influenced by this order. Rule is made absolute to the aforesaid extent with no orders as to costs.

8. Direct service is permitted.

[A.L. DAVE, J.]

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